

CASE 4-100-8303C/C1D1 (167-49)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF

Art Unit: 1614

SCHULER ET AL.

Examiner: Gembeh, Shirley V.

APPLICATION NO: 10/092,639

FILED: MARCH 7, 2002

FOR: USE OF RAPAMYCIN DERIVATIVES IN VASCULOPATHIES AND  
XENOTRANSPLANTATION

Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

TERMINAL DISCLAIMER

Sir:

Novartis AG, a company organized under the laws of the Swiss Confederation, having a place of business at Lichtstrasse 35, Basel, Switzerland 4056, represents that it is the assignee and owner of the entire interest in the above-identified application by virtue of an assignment which was recorded in the United States Patent and Trademark Office on March 7, 2002 at Reel/Frame 012696/0830.

Novartis AG hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the above-identified application which would extend beyond the expiration date of the full statutory term defined in 35 USC §154-156 and §173 as shortened by any terminal disclaimer of U.S. Patent No. 6,384,046, said U.S. Patent also assigned to Novartis AG by virtue of said assignment.

Novartis AG hereby agrees that any patent granted on the above-identified application shall be enforceable only for and during such period that it and said patents are commonly owned. This agreement runs with any patent granted on the above-identified application and is binding upon the grantee, its successors or assigns.

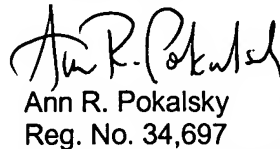
In making the above disclaimer, Novartis AG does not disclaim the terminal part of any patent granted on the above-identified application that would extend to the expiration date of the full statutory term as defined in 35 USC §154-156 and §173 of U.S. Patent No. 6,384,046, as shortened by any terminal disclaimer filed prior to the patent grant, in the event that any such granted patent: expires for failure to pay a maintenance fee, is held unenforceable, is found

invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR §1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

A terminal disclaimer fee under 37 CFR §1.20(d) is included.

Signed this 7<sup>th</sup> day of February, 2008 by the undersigned attorney of record.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ann R. Pokalsky". The signature is fluid and cursive, with the first name "Ann" and last name "Pokalsky" clearly distinguishable.

Ann R. Pokalsky  
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